

REMARKS

Claims 1, 40, 46 and 48 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Lundquist et al. '886. This rejection is respectfully traversed with respect to these claims as amended herein.

Specifically, these claims as now amended variously recite a distal portion “that is selectably shapable into a curvilinear configuration lying within a plane and forming a convex surface on a periphery of the curvilinear configuration”, and a tensioning member “for deflecting the distal portion to a predetermined shape from which a desired pattern of ablative energy is emitted, from the peripheral convex surface”. In addition, the remaining dependent claims are now further limited by such specific recitations as the orientation of the shield for emitting ablating energy in the direction of the convex surface of the probe.

These aspects of the claimed invention are not disclosed by Lindquist et al. '886 which is understood to disclose an ablation probe that is constructed to facilitate bending of a distal energy emitter, but is not understood to focus or direct the ablation energy through a convex surface of the bent probe. At best, this reference appears to rely upon shielding that can be manipulated longitudinally to uncover a portion of the length of the emitter as a mechanism for protecting tissue along the length of the probe (e.g., during urethral ablation) from exposure to tissue-ablating energy. This reference is therefore submitted to

be deficient of disclosure of the elements and structure of the invention as now claimed, and that these claims as amended are not anticipated by, but instead are patentably distinguishable over the cited art.

Rejected claims 16, 18 and 23-28 have been cancelled.

Claim 1 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Swanson et al. '246. This rejection is respectfully traversed with respect to this claim as amended herein.

This claim recites the language referenced in the above Remarks.

While it is noted that this reference discloses an ablation probe having a bendable distal end and a variety of electrode configurations for monopolar or bipolar tissue ablation, it is also noted that this reference appears to rely upon a sliding shield 50 to alter the impedance by covering a portion of the length of an electrode. It is submitted that this reference is deficient of disclosure of the specific elements and structure as now claimed that is patentably distinguishable over the cited art.

Rejected claims 6-8, 10, 13, 14 have been cancelled.

Claims 5, 9, 12 and 43 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lindquist et al. '886 in view of Berube et al '696. This rejection is respectfully traversed with respect to these claims as amended herein.

These dependent claims are further restricted from their respective preceding claims by the additional recitations of “a shield device disposed in the distal portion and adapted to be opaque to at least a portion of the ablative energy for reflecting the ablative energy through the peripheral convex surface and for shielding a portion of biological tissue adjacent to the distal portion of the ablation system not oriented near the peripheral convex surface”, or “the shield device is substantially convex with respect to the peripheral convex surface for reflecting there through the ablative energy toward a target tissue site”, or “one ablation element is an antenna adapted to emit electromagnetic energy”, or “one ablation element is an antenna adapted to emit electromagnetic energy therefrom in the direction aligned with the plane and passing through the convex surface”.

These aspects of the claimed invention facilitate efficient placement of a curvilinear probe in tangential contact with a surface of tissue to be ablated by emission of electromagnetic energy in a specified direction that passes through a peripheral convex surface of a deflected or shaped distal portion.

These aspects of the claimed invention are not shown or suggested by the cited references considered either alone or in the combination proposed by the Examiner.

Specifically, Lindquist et al ‘886, as discussed in the above Remarks, is submitted to be deficient of disclosure of emitting energy through a peripheral

convex surface of a bent probe and, Berube et al '696 is submitted to disclose a distal antenna section that appears not to be deflected from a longitudinal axis of the probe, or is not otherwise configured to incorporate a peripheral convex surface through which the abating energy is transmitted. Thus, combining these references in the manner as proposed by the Examiner is submitted to be deficient for establishing even a *prima facie* basis from which a proper determination of obviousness can be made. It is therefore respectfully submitted that claims 5, 9, 12 and 43 as amended herein are now patentably distinguishable over the cited references.

Rejected claims 27, 33, 34 and 37-39 have been cancelled.

Reconsideration and allowance of claims 1, 5, 9, 12, 29, 31, 40-43, 46, 48, 50 and 52 as amended herein are solicited. In the event the Examiner decides to continue the rejection of claims, he is respectfully requested to enter this amendment in order to simplify and clarify the issues for appeal.

Respectfully submitted,
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